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DEPARTMENT OF COMMERCE

International Trade Administration

[C-533-890]

Certain Quartz Surface Products from India: Final Affirmative Countervailing Duty Determination and Final Affirmative Determination of Critical Circumstances, In Part

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) determines that countervailable subsidies are being provided to producers and exporters of certain quartz surface products (quartz surface products) from India.

DATES: Applicable [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Kristen Johnson or Stephanie Moore, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-4793 or (202) 482-3692, respectively.

SUPPLEMENTARY INFORMATION:

Background

On October 11, 2019, Commerce published the *Preliminary Determination* of the countervailing duty (CVD) investigation, which aligned the final determination in this CVD investigation with the final determination in the companion antidumping duty investigation of quartz surface products from India.<sup>1</sup> On November 20, 2019, Commerce published the *Amended*

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<sup>1</sup> See *Certain Quartz Surface Products from India: Preliminary Affirmative Countervailing Duty Determination, Preliminary Affirmative Critical Circumstances Determination, In Part, and Alignment of Final Determination With Final Antidumping Duty Determination*, 84 FR 54838 (October 11, 2019) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum (PDM).

*Preliminary Determination* in this investigation.<sup>2</sup> On March 12, 2020, we issued a Post-Preliminary Determination.<sup>3</sup>

A summary of the events that occurred since Commerce published the *Amended Preliminary Determination*, as well as a full discussion of the issues raised by parties for this final determination, are discussed in the Issues and Decision Memorandum, which is hereby adopted by this notice.<sup>4</sup> The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/index.html>. The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

#### Period of Investigation

The period of investigation is April 1, 2018 through March 31, 2019.

#### Scope of the Investigation

The products covered by this investigation are quartz surface products from India. For a complete description of the scope of this investigation, *see* Appendix I.

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<sup>2</sup> See *Certain Quartz Surface Products from India: Amended Preliminary Affirmative Countervailing Duty Determination, Preliminary Affirmative Critical Circumstances Determination, In Part, and Alignment of Final Determination With Final Antidumping Duty Determination*, 84 FR 64047 (November 20, 2019) (*Amended Preliminary Determination*), and accompanying Amended PDM.

<sup>3</sup> See Memorandum, "Post-Preliminary Analysis Memorandum in the Countervailing Duty Investigation of Certain Quartz Surface Products from India," dated March 11, 2020 (Post-Preliminary Determination).

<sup>4</sup> See Memorandum, "Issues and Decisions Memorandum for the Final Determination of the Countervailing Duty Investigation of Certain Quartz Surface Products from India," dated concurrently with, and hereby adopted by, this notice (Issues and Decisions Memorandum).

## Scope Comments

On December 4, 2019, Commerce issued a Preliminary Scope Memorandum.<sup>5</sup> We received no scope case briefs from interested parties. Therefore, Commerce has made no changes to the scope of this investigation since the *Preliminary Determination*.

## Analysis of Subsidy Programs and Comments Received

The subsidy programs under investigation and the issues raised in the case and rebuttal briefs by parties in this investigation are discussed in the Issues and Decision Memorandum. A list of the issues that parties raised is attached to this notice as Appendix II.

## Methodology

Commerce conducted this investigation in accordance with section 701 of the Tariff Act of 1930, as amended (the Act). For each of the subsidy programs found countervailable, Commerce determines that there is a subsidy, *i.e.*, a financial contribution by an “authority” that gives rise to a benefit to the recipient, and that the subsidy is specific.<sup>6</sup> Additionally, consistent with the Post-Preliminary Determination, we relied on facts available with an adverse inference (AFA) in accordance with sections 776(a) and (b) of the Act, for certain determinations with respect to the Government of India. For a full description of the methodology underlying our final determination, *see* the Issues and Decision Memorandum.

## Verification

As provided in section 782(i) of the Act, in December 2019 and February 2020, we conducted verification of the information submitted by Antique Marbonite Private Limited (Antique Marbonite) and Pokarna Engineered Stone Limited (Pokarna), respectively, for use in

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<sup>5</sup> See Memorandum, “Certain Quartz Surface Products from India and Turkey: Preliminary Scope Decision Memorandum,” dated December 4, 2019.

<sup>6</sup> See sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

Commerce’s final determination. We used standard verification procedures, including an examination of relevant accounting records and original source documents provided by the respondents.<sup>7</sup>

#### Changes Since the *Preliminary Determination*

Based on our review and analysis of the comments received from parties and our verification findings, we made certain changes to the subsidy rate calculations for Pokarna. For a discussion of these changes, *see* the Issues and Decision Memorandum.

#### Final Affirmative Determination of Critical Circumstances, In Part

Pursuant to section 705(a)(2) of the Act, Commerce determines that critical circumstances exist for imports of quartz surface products from India for all other companies. For further information on Commerce’s critical circumstances analysis, *see* the Issues and Decision Memorandum.

#### All-Others Rate

In accordance with section 705(c)(1)(B)(i)(I) of the Act, we calculated an individual estimated subsidy rate for Antique Marbonite and Pokarna. Section 705(c)(5)(A)(i) of the Act states that for companies not individually investigated, we will determine an all-others rate equal to the weighted average of the countervailable subsidy rates established for exporters and producers individually investigated, excluding any zero and *de minimis* countervailable subsidy rates, and any rates based entirely on AFA under section 776 of the Act, by exports of subject

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<sup>7</sup> *See* Memorandum, “Verification of the Questionnaire Responses of Antique Marbonite Private Limited and its responding cross-owned affiliated companies,” dated January 8, 2020; *see also* Memorandum, “Verification of the Questionnaire Responses of Pokarna Engineered Stone Limited and Pokarna Limited,” dated March 11, 2020.

merchandise to the United States. Therefore, the all-others rate is a weighted average of the Antique Marbonite and Pokarna rates.<sup>8</sup>

#### Final Determination

We determine the total estimated net countervailable subsidy rates to be:

<b>Producer/Exporter</b>	<b>Subsidy Rate</b>
Antique Marbonite Private Limited <sup>9</sup>	1.57 percent <sup>10</sup>
Pokarna Engineered Stone Limited <sup>11</sup>	2.34 percent
All Others	2.17 percent

#### Disclosure

We intend to disclose to interested parties the calculations and analysis performed in this final determination within five days of any public announcement or, if there is no public announcement, within five days of the date of the publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

#### Continuation of Suspension of Liquidation

As a result of our *Preliminary Determination*, and pursuant to sections 703(d)(1)(B) and (d)(2) of the Act, Commerce instructed U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise, as described in the scope of the investigation

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<sup>8</sup> See Memorandum, “Certain Quartz Surface Products from India: All Others Rate,” dated concurrently with this notice.

<sup>9</sup> The company’s legal name is Antique Marbonite Private Limited and trade name is Antique Marbonite Pvt. Ltd. Commerce finds the following companies to be cross owned with Antique Marbonite Private Limited: Antique Granito Shareholders Trust (Antique Trust), Prism Johnson Limited (Prism Johnson), and Shivam Enterprise (Shivam).

<sup>10</sup> Unlike at the *Preliminary Determination*, Antique Marbonite’s subsidy rate is not *de minimis* for this final determination. On February 10, 2020, the United States Trade Representative published in the *Federal Register* revised designations of developing and least-developed countries under the CVD law. Effective as of February 10, 2020, India is no longer designated as a developing country and now has a *de minimis* rate of 1.0 percent. See *Designations of Developing and Least-Developed Countries Under the Countervailing Duty Law*, 85 FR 7613 (February 10, 2020).

<sup>11</sup> Commerce finds the following company to be cross owned with Pokarna: Pokarna Limited.

section, that was entered or withdrawn from warehouse for consumption on or after October 11, 2019, the date of publication of the *Preliminary Determination* in the *Federal Register*, for Pokarna. For all other companies, Commerce instructed CBP to suspend liquidation of entries of subject merchandise that was entered or withdrawn from warehouse for consumption on or after July 13, 2019, because Commerce determined that critical circumstances exist for imports of subject merchandise from all producers and/or exporters not individually examined.

Because the preliminary subsidy rate for Antique Marbonite was *de minimis*, Commerce directed CBP not to suspend liquidation of entries of the subject merchandise produced by Antique Marbonite and exported by Antique Marbonite, Antique Trust, Prism Johnson, or Shivam. However, because the final subsidy rate for Antique Marbonite is above *de minimis*, in accordance with section 705(c)(1)(C) of the Act, we are directing CBP to suspend liquidation of all entries of quartz surface products from India produced and/or exported by Antique Marbonite that are entered, or withdrawn from warehouse, for consumption on or after the date of the publication of this notice in the *Federal Register* and to require a cash deposit for such entries of merchandise in the amount indicated above.

As a result of the *Amended Preliminary Determination*, on November 21, 2019, Commerce instructed CBP to suspend liquidation of entries of subject merchandise, that was entered or withdrawn from warehouse for consumption on or after November 20, 2019, the date of publication of the *Amended Preliminary Determination* in the *Federal Register*, at a different cash deposit rate for Pokarna and all other producers/exports (*i.e.*, other than Antique Marbonite) than the cash deposit rates in the *Preliminary Determination*.

In accordance with section 703(d) of the Act, we issued instructions to CBP to discontinue the suspension of liquidation for CVD purposes for subject merchandise entered, or

withdrawn from warehouse, on or after February 8, 2020, but to continue the suspension of liquidation of all entries from October 11, 2019 through February 7, 2020 for Pokarna and July 13, 2019 through February 7, 2020, for all producers and/or exporters not individually examined.

If the U.S. International Trade Commission (ITC) issues a final affirmative injury determination, we will issue a CVD order, reinstate the suspension of liquidation under section 706(a) of the Act, and will require a cash deposit of estimated countervailing duties for such entries of subject merchandise in the amounts indicated above. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled.

#### ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. Because the final determination in this proceeding is affirmative, in accordance with section 705(b) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of quartz surface products from India no later than 45 days after our final determination. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all cash deposits will be refunded. If the ITC determines that material injury or threat of material injury does exist, Commerce will issue a CVD order directing CBP to assess, upon further instruction by Commerce, countervailing duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation, as discussed above in the “Continuation of Suspension of Liquidation” section.

### Notification Regarding Administrative Protective Orders

In the event the ITC issues a final negative injury determination, this notice serves as the only reminder to parties subject to an APO of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a violation subject to sanction.

### Notification to Interested Parties

This determination is issued and published pursuant to sections 705(d) and 777(i) of the Act and 19 CFR 351.210(c).

Dated: April 27, 2020

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Jeffrey I. Kessler,  
Assistant Secretary  
for Enforcement and Compliance.



## **Appendix I**

### **Scope of the Investigation**

The merchandise covered by the investigation is certain quartz surface products. Quartz surface products consist of slabs and other surfaces created from a mixture of materials that includes predominately silica (*e.g.*, quartz, quartz powder, cristobalite, glass powder) as well as a resin binder (*e.g.*, an unsaturated polyester). The incorporation of other materials, including, but not limited to, pigments, cement, or other additives does not remove the merchandise from the scope of the investigation. However, the scope of the investigation only includes products where the silica content is greater than any other single material, by actual weight. Quartz surface products are typically sold as rectangular slabs with a total surface area of approximately 45 to 60 square feet and a nominal thickness of one, two, or three centimeters. However, the scope of this investigation includes surface products of all other sizes, thicknesses, and shapes. In addition to slabs, the scope of this investigation includes, but is not limited to, other surfaces such as countertops, backsplashes, vanity tops, bar tops, work tops, tabletops, flooring, wall facing, shower surrounds, fire place surrounds, mantels, and tiles. Certain quartz surface products are covered by the investigation whether polished or unpolished, cut or uncut, fabricated or not fabricated, cured or uncured, edged or not edged, finished or unfinished, thermoformed or not thermoformed, packaged or unpackaged, and regardless of the type of surface finish.

In addition, quartz surface products are covered by the investigation whether or not they are imported attached to, or in conjunction with, non-subject merchandise such as sinks, sink bowls, vanities, cabinets, and furniture. If quartz surface products are imported attached to, or in conjunction with, such non-subject merchandise, only the quartz surface product is covered by the scope.

Subject merchandise includes material matching the above description that has been finished, packaged, or otherwise fabricated in a third country, including by cutting, polishing, curing, edging, thermoforming, attaching to, or packaging with another product, or any other finishing, packaging, or fabrication that would not otherwise remove the merchandise from the scope of the investigation if performed in the country of manufacture of the quartz surface products.

The scope of the investigation does not cover quarried stone surface products, such as granite, marble, soapstone, or quartzite. Specifically excluded from the scope of the investigation are crushed glass surface products. Crushed glass surface products must meet each of the following criteria to qualify for this exclusion: (1) the crushed glass content is greater than any other single material, by actual weight; (2) there are pieces of crushed glass visible across the surface of the product; (3) at least some of the individual pieces of crushed glass that are visible across the surface are larger than 1 centimeter wide as measured at their widest cross-section (“Glass Pieces”); and (4) the distance between any single Glass Piece and the closest separate Glass Piece does not exceed three inches.

The products subject to the scope are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under the following subheading: 6810.99.0010. Subject merchandise may also enter under subheadings 6810.11.0010, 6810.11.0070, 6810.19.1200, 6810.19.1400, 6810.19.5000, 6810.91.0000, 6810.99.0080, 6815.99.4070, 2506.10.0010, 2506.10.0050,

2506.20.0010, 2506.20.0080, and 7016.90.1050. The HTSUS subheadings set forth above are provided for convenience and U.S. Customs purposes only. The written description of the scope is dispositive.

## Appendix II

### List of Topics Discussed in the Final Decision Memorandum

- I. Summary
- II. Background
- III. Scope Comments
- IV. Scope of the Investigation
- V. Affirmative Final Determination of Critical Circumstances
- VI. Use of Facts Otherwise Available and Adverse Inferences
- VII. Subsidies Valuation
- VIII. Analysis of Programs
- IX. Analysis of Comments
  - Comment 1: Appropriate *De Minimis* Threshold for India
  - Comment 2: Application of AFA for the Provision of Natural Gas for Less Than Adequate Remuneration (LTAR)
  - Comment 3: Whether Commerce Should Select Imports of Liquefied Natural Gas as the Natural Gas Benchmark
  - Comment 4: Whether Commerce's Natural Gas AFA Determination Rewards Non-Compliance
  - Comment 5: Inclusion of the Integrated Goods and Services Tax in the Natural Gas Benchmark
  - Comment 6: Whether Commerce Should Countervail the Duty Drawback Scheme
  - Comment 7: Whether Commerce Should Countervail the Interest Equalization Scheme for Export Financing
  - Comment 8: Whether Special Economic Zone (SEZ) Programs Which Pokarna Used Are Countervailable
  - Comment 9: Whether Pokarna's Lease of Land from the Andhra Pradesh Industrial Investment Corporation (APIIC) Constitutes a Countervailable Subsidy
  - Comment 10: Whether Commerce Used the Correct Benchmark to Determine Whether the APIIC Allotted Land to Pokarna for LTAR
  - Comment 11: Whether Pokarna Misrepresented Its Purchase of Land and Fixed Assets Originally Owned by Indo Rock Granite Private Limited (Indo Rock) That Warrants the Application of Adverse Facts Available
  - Comment 12: Whether Commerce Used an Incorrect Sales Denominator When Calculating the Net Subsidy Rate for a Countervailable Subsidy Attributable to Pokarna Limited
  - Comment 13: Whether Commerce's Initiation of this Investigation Was Contrary to Law
- X. Recommendation

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